

109TH CONGRESS
2D SESSION

S. 2369

To require a more reasonable period for delayed-notice search warrants, to provide enhanced judicial review of FISA orders and national security letters, to require an enhanced factual basis for a FISA order, and to create national security letter sunset provisions.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2006

Mr. SPECTER (for himself, Mr. LEAHY, Ms. MURKOWSKI, Mr. SUNUNU, Mr. FEINGOLD, Mr. CRAIG, Mr. HAGEL, Mr. DURBIN, Mr. SALAZAR, Mrs. FEINSTEIN, Mr. OBAMA, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require a more reasonable period for delayed-notice search warrants, to provide enhanced judicial review of FISA orders and national security letters, to require an enhanced factual basis for a FISA order, and to create national security letter sunset provisions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. LIMITATION ON REASONABLE PERIOD FOR**
4 **DELAY.**

5 Section 3103a(b)(3) of title 18, United States Code,
6 is amended by striking “30 days” and inserting “7 days”.

1 **SEC. 2. JUDICIAL REVIEW OF FISA ORDERS AND NATIONAL**
 2 **SECURITY LETTERS.**

3 (a) FISA.—Subsection (f)(2) of section 501 of the
 4 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
 5 1861) is amended

6 (1) in subparagraph (A)(i)—

7 (A) by striking “a production order” and
 8 inserting “a production order or nondisclosure
 9 order”; and

10 (B) by striking “Not less than 1 year” and
 11 all that follows through the end of the clause;

12 (2) in subparagraph (A)(ii), by striking “pro-
 13 duction order or nondisclosure”; and

14 (3) in subparagraph (C), by striking clause (ii)
 15 and redesignating clause (iii) as clause (ii).

16 (b) JUDICIAL REVIEW OF NATIONAL SECURITY LET-
 17 TERS.—Section 3511(b) of title 18, United States Code,
 18 is amended—

19 (1) in paragraph (2), by striking “If, at the
 20 time of the petition,” and all that follows through
 21 the end of the paragraph; and

22 (2) in paragraph (3), by striking “If the recer-
 23 tification that disclosure may” and all that follows
 24 through “made in bad faith.”.

1 **SEC. 3. FACTUAL BASIS FOR REQUESTED ORDER.**

2 Section 501(b)(2)(A) of the Foreign Intelligence Sur-
3 veillance Act of 1978 (50 U.S.C. 1861(b)(2)(A)) is amend-
4 ed to read as follows:

5 “(A) a statement of facts showing that
6 there are reasonable grounds to believe that the
7 records or other things sought—

8 “(i) are relevant to an authorized in-
9 vestigation (other than a threat assess-
10 ment) conducted in accordance with sub-
11 section (a)(2) to obtain foreign intelligence
12 information not concerning a United
13 States person or to protect against inter-
14 national terrorism or clandestine intel-
15 ligence activities; and

16 “(ii) either—

17 “(I) pertain to a foreign power or
18 an agent of a foreign power;

19 “(II) are relevant to the activities
20 of a suspected agent of a foreign
21 power who is the subject of such au-
22 thorized investigation; or

23 “(III) pertain to an individual in
24 contact with, or known to, a suspected
25 agent of a foreign power; and”.

1 **SEC. 4. NATIONAL SECURITY LETTER SUNSET.**

2 Section 102 of the USA PATRIOT Improvement and
3 Reauthorization Act of 2005 (H.R. 3199, 109th Congress,
4 2d Session) is amended by adding at the end the following:

5 “(c) OTHER SUNSETS.—

6 “(1) IN GENERAL.—Effective December 31,
7 2009, the following provisions are amended so that
8 they read as they read on February 27, 2006:

9 “(A) Section 2709 of title 18, United
10 States Code.

11 “(B) Sections 626 and 627 of the Fair
12 Credit Reporting Act (15 U.S.C. 1681u,
13 1681v).

14 “(C) Section 1114 of the Right to Finan-
15 cial Privacy Act (12 U.S.C. 3414).

16 “(D) Section 802 of the National Security
17 Act of 1947 (50 U.S.C. 436).

18 “(2) EXCEPTION.—With respect to any par-
19 ticular foreign intelligence investigation that began
20 before the date on which the provisions referred to
21 in paragraph (1) cease to have effect, or with re-
22 spect to any particular offense or potential offense
23 that began or occurred before the date on which
24 such provisions cease to have effect, such provisions
25 shall continue in effect.”.

1 **SEC. 5. RULE OF CONSTRUCTION.**

2 Amendments to provisions of law made by this Act
3 are to such provisions, as amended by the USA PATRIOT
4 Improvement and Reauthorization Act of 2005 (H.R.
5 3199, 109th Congress, 2d Session) and by the USA PA-
6 TRIOT Act Additional Reauthorizing Amendments Act of
7 2006 (S. 2271, 109th Congress, 2d Session).

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